

1 KATHLEEN MAYLIN (SBN (SBN 155371)  
2 CARA CHING-SENAHA (SBN 298467)  
3 JACKSON LEWIS LLP  
4 199 Fremont Street, 10th Floor  
5 San Francisco, California 94105  
6 Telephone: (415) 394-9400  
7 Facsimile: (415) 394-9401  
8  
9 Attorneys for Defendants  
10 NATIONAL RAILROAD PASSENGER  
11 CORPORATION dba AMTRAK and JOE DEELY

12 UNITED STATES DISTRICT COURT  
13  
14 NORTHERN DISTRICT OF CALIFORNIA

15 JOHN EARL CAMPBELL,

16 Plaintiff,

17 v.

18 NATIONAL RAILROAD PASSENGER  
19 CORPORATION dba AMTRAK, JOE DEELY,  
20 and DOES 1-15, inclusive,

21 Defendants.

Case No. C05-05434 MJJ

**DECLARATION OF CARA CHING-  
SENAHA IN SUPPORT OF  
DEFENDANTS' NATIONAL  
RAILROAD PASSENGER  
CORPORATION'S AND JOE DEELY'S  
MOTION FOR SUMMARY  
JUDGMENT, OR IN THE  
ALTERNATIVE, SUMMARY  
ADJUDICATION**

[Notice of Motion, Memorandum of Points  
and Authorities, and Declarations in  
Support of Motion concurrently filed]

Date: May 8, 2007  
Time: 9:30 a.m.  
Courtroom: 11  
Floor: 19  
Judge: The Hon. Martin J. Jenkins

Complaint Filed: 12/30/05  
FAC Filed: 2/23/06  
Trial Date: 7/23/2007

[Fed.R.Civ.Proc. 56]

22 I, Cara Ching-Senaha, declare on the basis of personal knowledge:

23 1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for  
24 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE  
25  
26  
27  
28

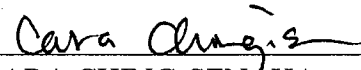
1 DEELY. I am licensed to practice law in the above-referenced district court. I make the  
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,  
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages  
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'  
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,  
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages  
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and  
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken  
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from  
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3<sup>rd</sup> day of April, 2007 in San Francisco, California. I declare under penalty  
15 of perjury under the laws of California and the United States of America that the foregoing is true  
16 and correct.

17  
18   
19 CARA CHING-SENAHA

Mar 22 02 04:17p  
3-20-2002 2:46PM

Jay Commer CalifCorr  
FROM W DEPARTMENT 8185472532

510-433-5915

P. 4

Decision Letter  
Mr. John Campbell  
Case #019.02  
Page Three

Based on the decision of Hearing Officer Butler, you are hereby assessed discipline of:

- \* TEN DAYS SUSPENSION TO INCLUDE THE FOLLOWING:
- \* 4 Days Time Served from January 12, 2002 - January 15, 2002  
and 6 Days Suspension to be served between April 3, 2002 and to  
include April 8, 2002, and Ten Days to be held in abeyance.

Sincerely,

  
Jay Commer  
General Manager  
California Corridor

cc: G. Baxter  
R. Belluomini-FedEx Tracking #8313 2752 1989  
Personnel  
Labor Relations

HMT RAK 500A

501735 83

ENGINE SERVICE

C/O

EXTERNAL

PAUL

HO

PAID  
11-19-03

EXHIBIT	17
DEPT.	for identification
WITNESS:	J. Campbell
DATE:	2-26-07
SHARON TRUJILLO, CSR 6120	

D09960

JOHN CAMPBELL  
2210 109th. AVE.  
(510) 632-5081  
OAKLAND, CALIFORNIA  
94603-4032

JOB HISTORY

5-84/2-92 SOUTHERN PACIFIC TRANS.  
MACHINE OPERATOR  
REPAIR RAILROAD, RIGHT-OF-WAY; OPERATED SEVERAL TRACK MACHINES  
TAMPERS, BALLAST REGULATOR, HI-RAILER, ETC.

2-92/4-97 VIA MESSENGER SERVICE  
COURIER  
DELIVERED INTER-OFFICE IN DOWNTOWN SAN FRANCISCO.

4-97/PRESENT COUNTY OF ALAMEDA  
IN-HOME CARE GIVER  
PROVIDE IN-HOME SERVICE TO THE AGING & DISABLE.

EDUCATION

9-80/6-81 MERRITT COLLEGE 1 SEMESTER-LITERATURE OAKLAND, CA

10-77/6-80 OAKLAND HIGH SCHOOL CLASS OF 80 3.26 G.P.A.

ACTIVITIES FISHING, HIKING, FOOTBALL, BASEBALL & BOWLING.  
AWARDS PERFECT ATTENDANCE SR. YEAR OF HIGH SCHOOL.  
SAFETY AWARD 1987 SOUTHERN PACIFIC.

REFERENCES AVAILABLE UPON REQUEST

D09961

09/17/2004 14:31 51043 015  
1.05/16/2004 10:15 121 97092

AMTRAK  
LAW DEPARTMENT

PAGE 01  
PAGE 01

NATIONAL RAILROAD PASSENGER CORPORATION

810 North Alameda Street, Los Angeles, CA 90012

## DECISION



September 17, 2004  
File #LAX-UTU-04/DISC  
Case #386.04

Federal Express #7919 3003 8200

Mr. John Campbell  
2210 109<sup>th</sup> Avenue  
Oakland, CA 94603

Dear Mr. Campbell:

By letter, dated August 6, 2004, Case #386.04, you were directed to appear for a formal investigation.

A formal disciplinary investigation was conducted on September 9, 2004, in which you and your union representative were in attendance. The following findings are based on the evidence and testimony presented at the investigation:

1. The rules cited were in effect and applicable to you at the time of the alleged wrongdoing, as it is applicable to all Amtrak employees in your job category.
2. Charge 2 was not sustained.
3. Charges 1, 3, 4 and 5 were proven. It is evident on the record by the testimony of the Corporation's witnesses and your own testimony that you clearly violated the rules and instructions regarding the movement and coupling of cars and engines.

Based on the foregoing findings and the hearing record as a whole, I find that you are guilty of the charges. The transcript of the aforementioned investigation is enclosed.

Sincerely,

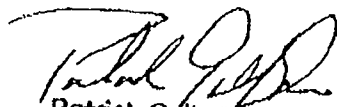
  
Patrick Gallagher  
Hearing Officer  
Western Region

EXHIBIT	FILE	19
	DEPT.	
WITNESS:	J. Campbell	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 0120		

EXHIBIT J

09/17/2004 14:31 51043 015

AMTRAK

PAGE 02

Decision Letter  
Mr. John Campbell  
Case No. 386.04  
Page Two



Based on the decision of Hearing Officer, Gallagher, you are hereby assessed discipline of:

Termination from service, effective immediately. This decision is based on the current charges and your previous Discipline Record listed below:

<u>Date</u>	<u>Charge/Rule Violation</u>	<u>Discipline Assessed</u>
• 4/4/00	GCOR Rules - 1.1.3 Accidents, Injuries, and defects, 6.28 Other than Main Track Movements, 7.1 Switching safely, 7.3 Switching precautions, 7.5 Testing Hand Brakes, 7.6 Securing cars and engines	Waived
• 1/14/02	GCOR Rules - 7.1 Switching Safely and Efficiently, 7.4 Precautions for Coupling and Moving Cars or Engines, 7.12 Movements into Spur Tracks	S10

Sincerely,

A handwritten signature in dark ink, appearing to read "SE Shelton".

S. E. Shelton  
District Superintendent  
Pacific Division - Bay District

SES/ir

cc: E. Adams - UTU Chairman -- Fed Ex Tracking 7902 6820 6654  
L. C. Hriczak -- Director -- Labor Relations  
T. Duffy -- Director -- Human Resources

November 9, 2004

Mr. A. L. Suozzo, General Chairperson  
United Transportation Union  
1515 Market Street, Suite 708  
Philadelphia, PA 19102

Re: OC-UTU-SD-1678D  
J. Campbell

Dear Mr. Suozzo:

We discussed this case during our conference on October 27, 2004, with Mr. R. M. Lenfest, of your staff. The case involves the dismissal of Conductor John Campbell, Oakland, California, in connection with the following charges:

"Charge 1: Your alleged violation of Amtrak's Service Standards for Train Service Employees - Manual No. 2 (effective 5/3/2004) - Chapter 3B - Safety Rules for Train Service Employees - Rule 5800 - Coupling or Uncoupling Engine or Cars, which reads

'Prior to going on, under or between standing equipment for the purpose of coupling or uncoupling engines or cars, crewmembers must:

- Discuss safety matters and work to be performed.
- Communicate before action is taken.
- Protect against moving equipment.
- Secure equipment before action is taken.
- Mentor less experienced employees to perform service safely.'

Charge 2: Your alleged violation of General Code of Operating Rules - Fourth Edition - April 2, 2000 - Rule 7.1 - Switching Safely and Efficiently, which reads in part... 'While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property.'

Charge 3: Your alleged violation of General Code of Operating Rules - Fourth Edition - April 2, 2000 - Rule 1.47 - Duties of Trainmen and Enginemen, Item D Other Crew Members' Responsibilities, Part 1. 'To ensure the train is operated safely and rules are observed, other crew members must assume as much responsibility as possible to prevent accidents or rules violations.'

EXHIBIT	21
PLT DEPT	for identification
WITNESS:	J. Campbell
DATE:	2-26-07
SHARON TRUJILLO, CSR 6120	

EXHIBIT M



Mr. A. L. Suozzo  
November 9, 2004  
Page 2

Re: OC-UTU-SD-1678D  
J. Campbell

Charge 4: Your alleged violation of General Code of Operating Rules - Fourth Edition - April 2, 2000 - Rule 7.4 - Precautions for Coupling or Moving Cars or Engines, which reads in part... 'Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.'

Charge 5: Your alleged violation of Amtrak Air Brake and Train Handling Rules and Instructions, AMT-3 - Revised and Reissued August 19, 2002 - Rule 2.14.16: which reads... 'Multiple lite locomotives may be moved within the confines of a yard or terminal without connecting the M.U. hoses, as long as the brake pipe and main reservoir hoses are connected with associated angle and main reservoir cocks open.'

Specification: It is alleged that on July 24, 2004 while assigned to position CYO103 working as the Conductor in the Oakland Diesel Shop you cut out the brakes on a locomotive and failed to properly secure it prior to coupling."

During conference, the Organization contended that the Carrier failed to call the assistant conductor to testify; that the Claimant's inability to connect air hoses on the pit mitigated his guilt; and that Claimant's actions did not result in damage or delay to a train. The union contended further, that in any event, the discipline assessed was excessive. For these reasons, the Organization requested that the discipline be expunged from the Claimant's record and that he be restored to service with pay for time lost and all rights and benefits unimpaired.

The record indicates that the Claimant was properly notified, in writing, of the charge against him and was given proper notice to appear for the investigation on August 10, 2004. At the investigation, which had been postponed-by mutual agreement-until September 9, 2004, the Claimant was present and represented by a duly authorized representative of the Organization, who was permitted to cross-examine witnesses and present evidence on his behalf.

There is no evidence in the record in this case that any action of the carrier was an abuse of the discretion vested in it. The record clearly shows that the Claimant's rights to a fair and impartial investigation were not violated and that there is substantial evidence to support the Hearing Officer's finding that he was guilty of charges 1, 3, 4 and 5. Charge 2 was not sustained.

The Carrier was not required to call the assistant conductor to testify inasmuch as the charges were proven through the testimony of Mr. Dave West, Foreman, as well as Claimant's admission that he disabled the brakes on the locomotive and left it on the pit. Their testimony disclosed that the locomotive rolled away during a hard coupling on the service track because the Claimant had disabled its brakes. The record reveals that Foreman West ran after the locomotive, boarded it, cut the trucks back in, and was able to stop it from rolling further.

Mr. A. L. Suozzo  
November 9, 2004  
Page 3

Re: OC-UTU-SD-1678D  
J. Campbell

The Claimant has offered no evidence in support of his unsubstantiated assertion that it was unsafe to cut in the locomotive's trucks while it was on the pit. Such contention is nothing more than a self-serving attempt to mitigate his admitted violation of the rules with which charged.

Finally, in view of the Claimant's admission and in consideration of his service record, which includes progressive discipline, both a reprimand and a twenty-day suspension (ten days actual and ten held in abeyance), for operating rule violations involving switching, securing, and coupling equipment, the discipline assessed was commensurate and was not arbitrary, capricious or excessive. The Claimant has been afforded sufficient opportunity to correct his behavior to comply with the Carrier's operating rules and failed to do so. The Carrier need not retain employees in its service who are unable to work safely and are either unable or unwilling to comply with the Carrier's operating rules.

For these reasons, your appeal is denied in its entirety.

Very truly yours,



Larry C. Hriczak  
Director-Labor Relations

bc: Joe Deely  
Steve Shelton  
Bob Schmitt  
Milton Lundy  
Betty Blair  
Jim Ryan  
Lou De Phillips  
Jennifer Rieker  
Val Giulian  
Lisa Caridine  
Dick Wood  
Rick Sandler  
Library

Job Reference # 50173583

Amtrak - California-Oakland/East Bay - Passenger Engineer (2) eff 11/14/2003

The closing date for this position is November 21, 2003. The salary for this position is \$16.11 per hour.

Internal applicants only.

**Summary of Duties:**

Consistently and safely operates locomotives and trains in compliance with federal regulations and corporate policies. Operates equipment during varying work hours within a 24/7 transportation environment maintaining alertness, situational awareness and vigilance. Thinks and functions independently and utilizes clear and effective verbal communication skills in interaction with fellow crew members and other personnel responsible for safe and efficient train movement.

**Education:**

High School diploma or GED required. Some college or vocational training preferred.

**Work Experience:**

Some work experience demonstrating the ability to maintain alertness, awareness and vigilance, as well as clear, effective verbal communication skills in the performance of work. Satisfactory attendance and safe work record. Prior railroad operating experience and work history that demonstrates ability to adapt to variable and often changing work hours preferred. Preference given to individuals who were trained by a Class 1 carrier or equivalent passenger railroad and are currently certified as Class 1 Train Service Engineers.

**Other Requirements:**

1. Must provide a certified copy of motor vehicle driving record from the chief of the state driver's licensing agency in which the applicant was last issued a license and any license(s) issued or reissued from other state(s) within the preceding 60 months. Motor vehicle records must be void of any drug and alcohol violations within the previous 36 months.
2. Must have a motor vehicle driving record void of any convictions or state action canceling, revoking, suspending or denying a driver's license for operating a motor vehicle while under the influence of or impaired by alcohol or a controlled substance within the last 36 months or a record of refusal to undergo such testing as required by state law within the last 36 months.
3. Must sign a release of records authorizing all previous railroad employers to provide Amtrak with background information, if applicable. In accordance with FRA regulations, previous

EXHIBIT	23	for identification
	J. Campbell	
WITNESS:	2-26-07	
DATE:		SHARON TRULLIO, CSR 6120

railroad service records must be void of any drug and alcohol violations within the previous 60 months.

**Other:**

If selected, incumbent will be required to successfully complete Engineer Training as follows:

Individuals not previously certified as Class 1 Train Service Engineers:

7-10 weeks classroom and field work while headquartered at Amtrak's Training Center in Wilmington, DE; followed by extensive qualifying and on-the-job training associated with the Crew Base for which hired; paid at the student training rate until incumbent achieves certification as a Class 1 Train Service Engineer (currently \$16.11/hour straight time).

Individuals currently certified as Class 1 Train Service Engineers:

2-4 weeks classroom and field work while headquartered at Amtrak's Training Center in Wilmington, DE, followed by additional qualifying associated with the Crew Base for which hired; paid at the rate determined by the agreement schedule.

Incumbents are subject to periodic medical examinations including random drug and alcohol screenings.

**Travel:**

100 percent

**Job Notes**

**Last Day to Apply: 11/21/2003**

**Job Category: Transportation**

**Years of Experience: 1- 5**

**Travel Requirements: High**

**Relocation Benefits may Apply: No**

**Referral Bonus: 0 points**

AMTRAK is an equal opportunity employer committed to employing a diverse workforce. Internal AMTRAK employees must complete a job opportunities application to apply for positions.

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## Notice of Formal Investigation

Fed Ex Tracking # 7917 5568 9868

January 17, 2002

EXH #1

Mr. John E. Campbell  
2210 109<sup>th</sup> Avenue  
Oakland, CA 94603

Case No. 019.02

Dear Mr. Campbell:

You are hereby directed to appear for a Formal Investigation to be conducted as follows:

**Date:** January 25, 2002  
**Time:** 3:00 PM  
**Location:** Amtrak's Jack London Station  
245 2<sup>nd</sup> Street, 2<sup>nd</sup> Floor  
Oakland, CA 94607

The purpose of this investigation is to develop the facts and determine your responsibility, if any, in connection with the following:

**Charge 1:** Your alleged violation of the **General Code of Operating – Fourth Edition – April 2, 2000 – Rule 6.28 – Movement on Other than Main Track**, which reads, "Except when moving on a track where a block system is in effect, trains or engines must move at a speed that allows them to stop within half the range of vision short of:

- ❖ Train.
- ❖ Engine.
- ❖ Railroad car.
- ❖ Men or equipment fouling the track.
- ❖ Stop Signal or Derail or switch lined improperly."

**Charge 2:** Your alleged violation of the **General Code of Operating Rules – Fourth Edition – April 2, 2000 – Rule 7.1, Switching Safely and Efficiently**, which reads in part... "While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property."

EXHIBIT	27	for Identification
WITNESS:	J. Campbell	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 8120		

**Mr. John Campbell**

**Case No. 019.02**

**Page 2**

**Charge 3: Your alleged violation of the General Code of Operating Rules – Fourth Edition – April 2, 2000 – Rule 7.4 Precautions for Coupling or Moving Cars or Engines, which reads, “Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.**

**Make couplings at a speed of not more than 4 MPH. Stretch the slack to ensure that all couplings are made.”**

**Charge 4: Your alleged violation of the General Code of Operating Rules – Fourth Edition – April 2, 2000 – Rule 7.12 Movements into Spur Tracks, which reads in part... “When shoving into a spur track, control movement to prevent damage at the end of track....”**

**Specifications: It is alleged that while working as the Conductor on Yard Job CYO-4 on January 10, 2002, while shoving into Fume track in the Oakland Yard with 17 cars and 3 units, you were directing the movement when an alleged hard coupling resulted in equipment damage and the derailment of a box car.**

**You may produce any witnesses you desire and may be accompanied by a representative as provided in your current and governing agreement, without expense to the National Railroad Passenger Corporation.**

**All requests for postponements of this investigation must be handled through the Hearing Office at (818) 547-2519.**

**Sincerely,**

**Gregg Baxter  
Assistant General Manager  
California Corridor**

**cc: L. J. Commer - GM  
S. Birckett – AGM  
R. Wood – Labor Relations  
R. Butler – Hearing Office  
R. Belluomini – UTU Local Chairman  
L. Bellotti – Facility Manager  
D. Roberts – General Foreman  
M. McBride – Manager Operating Rules  
R. Robusto – Senior Director OPS**

PUBLIC LAW BOARD NO. 6478

Case No. 37  
Award No. 37

(United Transportation Union  
**PARTIES TO DISPUTE:** (  
(National Railroad Passenger Corporation (Amtrak)

**STATEMENT OF CLAIM:**

"Request the discipline of a ten days suspension to include the following: 4 days time served from January 12, 2002 - January 15, 2002 and 6 days suspension to be served between April 3, 2002 and to include April 8, 2002, and ten days to be held in abeyance, imposed upon John Campbell be rescinded and expunged from this record, and that he be compensated for all time lost in connection with the following charges:

**Charge 1: Your alleged violation of the General Code of Operating - Fourth Editions - April 2, 2000 - Rule 6.28 - Movement on Other Than Main Track, which reads, 'Except when moving on a track where a block system is in effect, trains or engines must move at a speed that allows them to stop within half the range of vision short of:**

- Train
- Engine
- Railroad Car.
- Men or equipment fouling the track.
- Stop Signal or Derail or switch lined improperly.'

**Charge 2: Your alleged violation of the General Code of Operating - Fourth Editions - April 2, 2000 - Rule 7.1 Switching Safely and Efficiently, which reads in part... 'While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property.'**

**Charge 3: Your alleged violation of General Code of Operating - Fourth Editions - April 2, 2000 - Rule 7.4 Precautions for Coupling or Moving Cars or Engines, which reads, 'Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.**

EXHIBIT	PLT DEFD	29 for identification
WITNESS:	J. Campbell	
DATE:	2-26-07	
SHARON TRUJILLO, CSR 6120		

D09554



Public Law Board No. 6478

Case No. 37: Award No. 37

Page 2 of 3

**‘Make couplings at a speed of not more than 4 MPH. Stretch the slack to ensure that all couplings are made.’**

**Charge 4: Your alleged violation of General Code of Operating - Fourth Editions - April 2, 2000 - Rule 7.12 Movements into Spur Tracks, which reads in part... ‘When shoving into a spur track, control movement to prevent damage at the end of the track...’**

**Specifications: It is alleged that while working as the Conductor on Yard Job CYO-4 on January 10, 2002, while shoving into the Fume track in the Oakland yard with 17 cars and 3 units, you were directing the movement when an alleged hard coupling resulted in equipment damage and the derailment of a boxcar.” [System Docket OC-UTU-SD-829D]**

**FINDINGS:**

**This Board, after hearing upon the whole record and all the evidence finds that the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.**

**This Board will forego a full discussion of the instant case due to its careful examination of the record on the property. The Agreement provision specifically sets forth in Rule 25 (Discipline) the procedures for appeal. Once the discipline is imposed, the appeal must be made within fifteen (15) days “to the Labor Relations officer having jurisdiction” in the process. There is no dispute in this record, that the Claimant was notified by date of March 28, 2002 of the Carrier’s findings of guilt. There is no dispute in this record that the Organization filed claim with the Carrier’s highest officer by letter of April 12, 2002. There is no record of any proper handling at the second level of appeal before it went to the highest officer.**

**The Board is compelled by Section 3, First (I) of the Railway Labor Act, which precludes consideration of claims that are not “handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes”, to dismiss such claims. When, as here, the appeal process has clearly not been followed in the usual manner on the property, the Board has no recourse, but to dismiss the**

**D09555**





Public Law Board No. 6478  
Case No. 37: Award No. 37  
Page 3 of 3

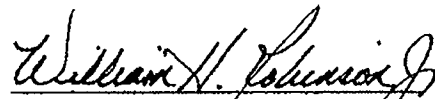
dispute without reaching the merits. The Carrier's position on property with regards to this issue is deemed proper. The claim must be dismissed.

**AWARD:**

The claim is dismissed.

  
Marty E. Zusman, Chairman  
Neutral Member

  
E. A. Iannone  
Organization Member

  
Wm. H. Robinson, Jr.  
Carrier Member

Date: 8/12/04

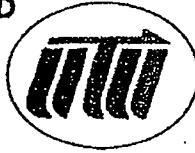
D09556

## united transportation union

A.L. Suozzo  
General Chairperson

GENERAL COMMITTEE OF ADJUSTMENT GO-769

**CERTIFIED MAIL  
RETURNED RECEIPT REQUESTED  
& REGULAR MAIL  
7004 1350 0005 2727 1918**



NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)  
MASSACHUSETTS BAY COMMUTER RAILROAD (MBCR)  
HERZOG TRANSIT SERVICES, INC.  
CONRAIL SAA

R. M. Lenfest, Jr.  
Vice Chairperson

G. R. Galvin  
Secretary

July 18, 2005

Mr. John E. Campbell  
2210 109<sup>th</sup> Ave.  
Oakland, CA 94603

Dear Sir and Brother:

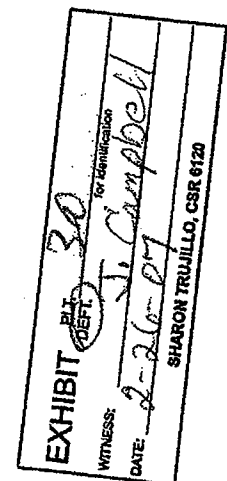
This is to advise you that the following claim in connection with which you are the Claimant, will be heard by Public Law Board No. 6478, on Monday, August 8, 2005, at 9:00 AM in the Carrier's office, Labor Relations Conference Room, 30<sup>th</sup> Street Station, 2<sup>nd</sup> Floor South Tower, Philadelphia, PA.

**System Docket No. OC-UTU-SD- SD-1678D-** Request the discipline of dismissal imposed upon J. Campbell be expunged from his record and that he be restored to service with seniority and vacation rights unimpaired and compensated for all time and expenses incurred inclusive of Health and Welfare premiums, Reduced Train Crew Allowance and Productivity Savings Sharing Allowance and credit for Railroad Retirement payments for each month for all time lost in connection therewith:

**"Charge 1:** Your alleged violation of Amtrak's Service Standards for Train Service Employees - Manual No. 2, (effective 5/3/2004-Chapter 3B - Safety Rules for Train Service Employees - Rule 5800 - Coupling or Uncoupling Engine or Cars, which reads:

'Prior to going on, under or between standing equipment for the purpose of coupling or uncoupling engines or cars, crewmembers must:

- Discuss safety matters and work to be performed.
- Communicate before action is taken.
- Protect against moving equipment.
- Secure equipment before action is taken.
- Mentor less experienced employees to perform service safely.'



000109

Mr. John E. Campbell  
July 18, 2005  
Page 2

**Charge 2:** Your alleged violation of **General Code of Operating Rules-Fourth Edition - April 2, 2000-Rule 7.1 - Switching Safely and Efficiently**, which reads in part . . . 'While switching, employees must work safely and efficiently and avoid damage to contents of cars, equipment, structures, or other property.'

**Charge 3:** Your alleged violation of **General Code of Operating Rules - Fourth Edition - April 2, 2000--Rule 1.47 - Duties of Trainmen and Enginemen, Item D Other Crew Members' Responsibilities, Part 1.** 'To ensure the train is operated safely and rules are observed, other crew members must assume as much responsibility as possible to prevent accidents or rule violations.'

**Charge 4:** Your alleged violation of **General Code of Operating Rules-Fourth Edition - April 2, 2000--Rule 7.4- Precautions for Coupling or Moving Cars or Engines**, which reads in part . . 'Before coupling to or moving cars or engines, verify that the cars or engines are properly secured and can be coupled and moved safely.

**Charge 5:** your alleged violation of **Amtrak Air Brake and Train Handling Rules And Instructions, AMT-3-Revised and Reissued August 19, 2002-Rule 2.14.16:** which reads: 'Multiple lite locomotives may be moved within the confines of a yard or terminal without connecting the M.U. hoses, as long as the brake pipe and main reservoir hoses are connected with associated angle and main reservoir cocks open.

**Specification:** It is alleged that on July 24, 2004 while assigned to position CYO103 working as the Conductor in the Oakland Diesel Shop you cut out the brakes on a locomotive and failed to properly secure it prior to coupling."

If you desire to attend, you may do so, without expense to the United Transportation Union. Please advise this office if your intention is to attend the hearing.

Faternally yours,

  
A. L. Suozzo  
General Chairperson

ALS/rmb

G: Amtrak Discipline 2004/am Campbell

000110

50131788

POSTING NO. AMTRAK JOB REQUISITION AND QUALIFICATION PROFILE DATE: \_\_\_\_\_

DEPARTMENT: CUSTOMER SERVICE

REPORTS TO: M. COLLINS

JOB TITLE: LOCOMOTIVE ENGINEER (12)

CONTACT: C. T. Miller

PHONE #: ATS: 767-4993

JOB CODE:

GRADE:

DATE REQUIRED: 11/1/01

MINIMUM SALARY: BLE Agmt.

RES CEN: 7270

FIS LOC:

6184

FUNC:

1642

MSA LOC:

SJC01

PARTIALLY EXCEPTED:

NON-AGREEMENT:

FULLY EXCEPTED:

AGREEMENT:

X

DEPARTMENT UNDERUTILIZED:

NEW POSITION: YES

FEMALE:

MINORITY:

NONE:

REPLACEMENT FOR: RETIREES &amp; TRANSFERS

OUTSIDE CANDIDATES CONSIDERED:

NO

RELOCATION BENEFITS APPLY:

NO

POSITION SUBJECT TO REASSIGNMENT:

NO

**SUMMARY OF DUTIES:**

Locomotive engineers are responsible for the safe operation of diesel electric locomotive, complying with train orders, bulletin orders, wayside signals, railroad regulations, railroad operating rules, special instructions and federal, state, and local regulations to transport passengers and equipment safely and efficiently. Locomotive engineers perform required tests and make inspections of equipment and air brakes, as required. The position involves working alone and apart in physical isolation while integrating activities with others. Locomotive engineers must have the ability to multitask and retain large amounts of material to memory and must make timely and critical decisions under stressful situations to safeguard lives and property.

**EDUCATION:**

MUST HAVE: High school diploma or equivalent.

PREFERRED: .

**WORK EXPERIENCE:**

(include specific areas, length time, type of work, etc.)

MUST HAVE: Valid drivers license and meet FRA regulation requirements for drivers license check.

PREFERRED: GCOR qualifications. Must have satisfactory prior work record. Preference may be given to locally qualified candidates.

**COMMUNICATION AND INTERPERSONAL SKILLS:**

Strong written and verbal communication skills are needed. Must be able to read and write English.

**OTHER REQUIREMENTS:**

Must be able to accept work assigned, willing to work and travel away from home. Work rotating shifts and holidays, weekends and irregular hours. Must be able to report to work within two hours from time of call.

**SUPERVISORY RESPONSIBILITIES:**

(number of people, scope, etc.)

NONE

**TRAVEL:**

Yes

**PERCENTAGE:**

100%

**COMMENTS:**

REPLACEMENTS FOR RETIREES AND TRANSFERS - 100% COMMUTER

(print name below)

DEPARTMENTAL APPROVAL: David Nogar

SIGNATURE: *W.B. Duggan*

DATED:

7/23/01

PERSONNEL APPROVAL:

SIGNATURE: \_\_\_\_\_

**PERSONNEL OFFICE USE ONLY:**

CONTROL NUMBER: \_\_\_\_\_

DATE FILLED: \_\_\_\_\_

PERSON HIRED: \_\_\_\_\_

SOURCE OF HIRE: \_\_\_\_\_

DATE OFFER LETTER SENT: \_\_\_\_\_

DATE ACCEPTANCE RECEIVED: \_\_\_\_\_

REPORTING DATE: \_\_\_\_\_

PERSONNEL

REPRESENTATIVE: *Paul Ho*

TOTAL DAYS REQUIRED TO FILL POSITION: \_\_\_\_\_

COMMENTS:

IRPC 2002

adapted by rls/engineering/tax = 1/99

date filled out:

typist:

EXHIBIT	PLT	31
WITNESS:	<i>J. Campbell</i>	
DATE:	<i>2-26-07</i>	
SHARON TRUJILLO, CSR 6120		

Post for 2 weeks

D01794

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL CAMPBELL,

Plaintiff,

vs.

No. C-05-05434 MJJ

NATIONAL RAILROAD PASSENGER  
CORPORATION, et al.,

**COPY**

Defendants.

\_\_\_\_\_ /

DEPOSITION OF SUSAN VENTURELLI

March 23, 2007

PATRICIA CALLAHAN & ASSOCIATES, INC.  
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Reported by:  
DEBORAH A. PIERSON  
CSR NO. 7988

PATRICIA CALLAHAN & ASSOCIATES

1 Mr. Pruesser?

2 MS. MAYLIN: Vague and ambiguous. I  
3 assume you are talking about Mr. Campbell.

4 MS. PRICE: Yes, about Mr. Campbell. We  
5 don't have to assume.

6 Q. The question is, do you recall what you asked  
7 Mr. Pruesser about Mr. Campbell?

8 A. I asked Mr. Preusser to provide information on the  
9 background checks for a number of candidates, all the  
10 candidates that he would have been directly supervising  
11 or indirectly supervising. Specifically, I asked about  
12 attendance, safety, operating rules, discipline.

13 Q. Do you have a memory of what Mr. Pruesser said to  
14 you on those subjects, as it related to John Campbell?

15 A. Not specifically.

16 Q. Do you have any kind of general recollection of  
17 what Mr. Pruesser told you?

18 A. That he had rule violations on his record.

19 Q. Did he tell you what type of rule violations?

20 A. A rule violation would be considered a serious  
21 rule violation, operating --

22 Q. Yes. My question is what type.

23 A. Oh, no, no.

24 Q. They have all kinds of rule violations.

25 A. I apologize. My familiarity with all the rules is

1 not such that I'd be an expert in understanding exactly  
2 what rule it was.

3 MS. MAYLIN: She's just asking what you  
4 you can recall. Can you recall?

5 THE WITNESS: No. I don't, other than what  
6 I have told you.

7 MS. PRICE: Q. So you don't remember if  
8 Mr. Preusser told you what type of rule violations or  
9 what particular rule violation?

10 A. No. I don't remember that.

11 Q. Did you ask him to fill out the background check  
12 form for Mr. Campbell?

13 A. I remember having sent out the background check  
14 forms. I don't remember whether I got that specific  
15 form back or not.

16 When we began the recruitment process, the first  
17 step was testing, which was actually a personality  
18 index, because I hadn't gotten the background checks  
19 back, and the time to recruit was limited.

20 I went ahead and invited all the applicants to  
21 take the test. I still hadn't gotten the background  
22 checks back by the time I needed to schedule  
23 interviews. So again, I invited all the candidates who  
24 were recommended based on the personality survey to  
25 come for the interview.



1 I believe I received the background checks after  
2 that, or information, at least, after that.

3 Q. Do you believe you received the information in  
4 writing after the interviews?

5 A. Yes.

6 Q. Do you believe you had your conversation with  
7 Mr. Pruesser about the candidates after the interviews?

8 A. Yes.

9 Q. In the interviews, do you recall that there were  
10 persons other than yourself who participated in the  
11 interviews?

12 A. Yes.

13 Q. Who else participated in the interviews?

14 A. Managers from San Jose, managers, I believe, from  
15 Sacramento, and managers from Oakland representing each  
16 crew base for where the vacancy was posted.

17 Q. Do you recall who those persons were?

18 A. I don't have a visual memory of who was actually  
19 there. Again, to the best of my knowledge,  
20 Billy Rogers from San Jose was there. A union rep was  
21 there; I believe it was Chad Skinner, and I'm not sure  
22 who the management representatives from Oakland and  
23 Sacramento were.

24 Q. How was it determined who would be on the  
25 interview panel?

# **EXHIBIT C**

1 IN THE UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3

4

5 JOHN EARL CAMPBELL,

6 Plaintiff,

7 vs.

No. C05-05434 MJJ

8 NATIONAL RAILROAD PASSENGER  
9 CORPORATION dba AMTRAK, JOE  
DEELY and DOES 1 through 15,  
inclusive,

10

Defendants.

11 \_\_\_\_\_/

12

13

14

15

DEPOSITION OF JOE DEELY

16

February 15, 2007

17

18

19

20 PATRICIA CALLAHAN & ASSOCIATES, INC.  
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Oakland, California 510-835-3993  
21 San Francisco, California 415-788-3993  
22 Castro Valley, California 510-885-2371

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Facsimile 510-247-9775

24

WeReport@aol.com

25

Reported by:  
LaRelle M. Fagundes  
CSR No. 9762

1 A. No.

2 Q. Okay.

3 Are there any changes you wish to make to  
4 your testimony from this morning?

5 A. No.

6 Q. Okay.

7 Do you receive any reports on any regular  
8 basis, whether annually, quarterly, monthly, of  
9 identifying the people hired in the Pacific  
10 division?

11 A. No.

12 Q. All right. Same question with respect to  
13 promotions within the Pacific division.

14 A. Not a specific report, no.

15 Q. Okay. All right.

16 Is it your testimony that you did not --  
17 you don't recall any involvement that you had in  
18 Mr. Campbell's termination?

19 MR. OBORNE: Objection. Vague and  
20 ambiguous.

21 THE WITNESS: I don't recall any  
22 involvement.

23 MS. PRICE: Q. Do you recall any  
24 involvement in Mr. -- in the decision not to  
25 promote Mr. Campbell in either 2003 or 2004?

PATRICIA CALLAHAN & ASSOCIATES